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Chairman: Mr. Rastam (Vice-Chairperson) ..... (Malaysia)
later: Mr. Penke (Chairperson) ..... (Latvia)

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The meeting was called to order at 10.05 a.m.

Agenda item 69: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/64/273, 289 and 187)

1. **Mr. Muñoz** (Special Rapporteur on the right to education), introducing his report (A/64/273), said that his activities since 2005 had involved ongoing dialogue with Governments, civil society, universities and research centres, and that the post of Special Rapporteur on the right to education was itself akin to a lifelong learning experience.

2. Every human being could aspire to lifelong learning, and to deprive a person of access to it was a serious infringement of personal integrity and dignity. Although formal education could stimulate and enhance lifelong learning, education based upon purely utilitarian considerations could also reinforce prejudice, exclusion and discrimination. Consequently, formal education needed to include human rights training which should be complemented by informal education that incorporated human rights learning. Formal education could provide information about human rights, but only lifelong learning could instil the capacity and motivation necessary for full realization of those rights.

3. The European Union and the United Nations Educational, Scientific and Cultural Organization (UNESCO), among others, had recognized the importance of lifelong learning as a tool for promoting human rights, social inclusion, active citizenship and personal development. Universities, Governments and civil society organizations had also launched initiatives in that area.

4. It should be recalled that according to the Universal Declaration of Human Rights, education was a means of promoting respect for human rights and fundamental freedoms. It was in that spirit that the United Nations General Assembly had declared the year beginning on 10 December 2008 the International Year of Human Rights Learning. In its resolution 49/184, the Assembly had outlined the basics of the notion of human rights learning or education, stating that it should involve a comprehensive lifelong process. The Human Rights Council Advisory Committee was discussing a draft United Nations Declaration on human rights education and training. He welcomed that initiative and hoped that such a future Declaration would offer a clear definition of human rights and human rights learning.

5. Human rights learning at the community level was perhaps the greatest challenge that today's globalized society needed to meet in order to continue its social, economic, political and cultural advancement. A number of civil society actors and a number of countries, including Albania, Poland, Romania, Slovakia and Slovenia, were promoting human rights learning at the formal and informal levels, while others, including Austria, Costa Rica and Switzerland, had been experimenting with non-formal human rights education. Communities had an important role to play in that area, as was illustrated by a post-literacy programme launched by a non-governmental organization in Kenya that later received Government support, and by the University of the Third Age, which had started in France in 1972 and whose model had since spread across Europe, as well as to such countries as Australia and South Africa.

6. It was time to extensively rethink education, going beyond purely utilitarian criteria and taking into account the importance of non-formal and informal education and the links among education, learning and human rights.

7. **Mr. Vigny** (Switzerland) said that the Special Rapporteur had drawn a clear distinction between human rights education and human rights learning while treating them as complementary. However, there were some in both New York and Geneva who regarded the two concepts as opposed to each other. He asked if the Special Rapporteur could explain again how the two ideas formed an indivisible whole.

8. **Ms. Leveaux** (Sweden), speaking on behalf of the European Union, said that she would like to know how education could be prevented from reinforcing prejudice, exclusion and discrimination. She also asked the Special Rapporteur to explain how education systems could promote the idea of learning, and, in view of the emphasis he had placed on lifelong learning and in particular human rights learning, if he had any practical recommendations in that regard.

9. **Ms. Boutin** (Canada) said that she agreed with the report's treatment of lifelong learning, human rights teaching and quality education as inextricably

linked to the realization of a global human rights culture. She asked how the Special Rapporteur planned to address those issues within the context of his mandate.

10. While States bore the primary responsibility for promoting and protecting the right to education, in practice that responsibility was shared with civil society. She wished to know if the many obstacles encountered by women and girls in exercising their right to education had been taken into account in the formulation of the lifelong learning initiatives mentioned in the report.

11. **Ms. Sicade** (United States of America) said that lifelong learning and human rights education were of great importance to the world's 650 million persons with disabilities. She asked the Special Rapporteur to suggest strategies to engage persons with disabilities in lifelong learning and human rights education activities. She also asked what steps could be taken by Member States and the specialized agencies of the United Nations to promote open education and distance learning.

12. **Ms. Acosta Hernández** (Cuba) said that her country had implemented a literacy programme entitled "Yo si puedo" ("Yes, I can") which had achieved success in many Latin American countries. Cuba also affirmed the universal right to a free education. She asked what institutions had been most closely involved with learning activities at the local level.

13. **Mr. Babadoudou** (Benin) said that in 2007, his delegation had encountered great reluctance when it had introduced the draft resolution on the International Year of Human Rights Learning. He asked the Special Rapporteur to explain the difference between human rights learning and human rights education, and in particular to clarify what exactly human rights learning consisted of. He also wished to know what added value the activities referred to in the report could bring to the international community, which for more than 15 years had been pursuing a vast educational programme, of which the Human Rights Council had just extended the second phase.

14. Since human rights were the concern not only of the State and civil society but also of individual citizens, he wished to know what human rights learning would mean for citizens and what capacities it could provide them with. He asked the Special Rapporteur to indicate what importance he attached to the principle of human dignity in the context of human rights learning.

15. **Ms. Mballa Eyenga** (Cameroon) said that the Subregional Centre for Human Rights and Democracy in Central Africa, established eight years previously by the heads of State and Government of Central Africa, was achieving its purpose of strengthening human rights promotion and protection capabilities by conducting training and awareness programmes for representatives of government and civil society. She thanked the United Nations High Commissioner for Human Rights and the Secretary-General for the support they provided for the Centre.

16. **Mr. Geurts** (European Commission) said that the comments made by the Special Rapporteur on the right to education in the report on the subject (A/64/273) were highly relevant to many human rights-related programmes and initiatives being implemented by the European Commission. Outside the European Union, the European Instrument for Democracy and Human Rights had made human rights education one of its main objectives.

17. He asked the Special Rapporteur to suggest possible points of departure for implementing his recommendation that human rights be progressively mainstreamed as a core element of lifelong learning. He also asked him to indicate best practices with regard to the integration of human rights learning into training activities. Finally, he asked the Special Rapporteur to elaborate on the role that national human rights institutions could play in promoting policies favourable to human rights learning.

18. **Mr. El Mkhantar** (Morocco) said that human rights education was an essential component of protecting human dignity and guaranteeing the full enjoyment of the universally recognized human rights. A new draft resolution on human rights education and training was being drawn up in Geneva, based on a draft resolution submitted by Morocco and Switzerland in 2007. In addition, aware of the importance of human rights education and training, Morocco had hosted in Marrakech, on 16 and 17 July 2009, an international seminar on the subject of integrating human rights education into Governments' policies and strategies.

19. He asked whether there was a distinction between human rights teaching and human rights learning, if perhaps one was a concept of limited scope, and the other could be conceived of in more general terms. He

also asked what measures the Special Rapporteur would recommend to improve the promotion of human rights by means of those two approaches.

20. *Mr. Penke (Latvia), Chairperson, took the chair.*

21. **Mr. González** (Costa Rica) said that his country had actively participated in the implementation of the first and second phases of the World Programme for Human Rights Education. He asked the Special Rapporteur to explain more fully the difference between human rights teaching and learning and how the two concepts could complement and strengthen each other.

22. **Mr. Muñoz** (Special Rapporteur on the right to education) welcomed the international community's increased awareness of the fundamental importance of human rights learning and teaching. At first glance, the progress made around the world in recent years in terms of school enrolment was cause for optimism. According to UNESCO, over the past 15 years or so, the number of children enrolled in school had risen by 60 million. At least 100 million adults had access to training.

23. However, although humanity had made significant progress in education, it must also be said that never before in history had so many educated people killed so many of their fellow human beings. Never before had environmental destruction and problems relating to security, humiliation, exclusion and discrimination reached such levels. According to the World Health Organization (WHO), the twentieth century had been the most violent century in human history.

24. The most important question was therefore what use was education. An education that did not contribute to development or the promotion of human rights was not only useless but also of very poor quality. It was crucial to incorporate human rights into education if progress was to be made at all levels of development. Developing human rights teaching was more than just a question of syllabuses; school administration and educational practices also needed to be modified, and teachers needed to be trained to deal with the particular problems of societies which were starved of human rights. Students needed assistance to develop critical thinking that would enable them to become aware of their rights and responsibilities.

25. As things stood, teaching was too focused on socialization and passing on information to the learners, neglecting any reflection on students' human rights responsibilities, particularly in terms of combating inequality and discrimination. Teaching should counter the patriarchal spirit and employ specific measures to promote openness and equal opportunities for all. Educational establishments suited to the needs of persons with disabilities needed to be built, the contents of syllabuses needed to be modified, persons with disabilities recruited as teachers, and funds allocated to measures designed to make the teaching accessible to all and to give teachers training that would help them deal with difference.

26. Human rights represented the fundamental ideology that today's societies, and humanity in general, needed in order to make progress, particularly in terms of human dignity, which was the opportunity for all persons to develop their responsibilities and fully exercise their rights. Those rights were learned not only in schools but also through practice. They enabled the ability of people and communities to deal with different challenges to be strengthened, and they must be learned on a daily basis, at home, in the workplace and through relationships between people and between communities. National human rights protection bodies had a fundamental role to play in that regard.

27. **Mr. Lumina** (Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights) announced that the Human Rights Council had approved his request for funding to organize regional multi-stakeholder consultations to develop his draft general guidelines on foreign debt and human rights (A/64/289, para. 7), which he intended to submit before the end of his term.

28. He did not intend to repeat the arguments about illegitimate debt outlined in his report (ibid., sect. III). The first issue he wished to address was the global economic crisis and the enjoyment of human rights. Since the crisis had the greatest impact on the poor and those already suffering from discrimination (women, children, migrants, persons with disabilities), it endangered the full range of human rights and their very foundation — the principle of human dignity. For example, the World Bank predicted that, in 2010, an additional 90 million people would fall beneath the

poverty line and 400,000 more children would die before the age of five. Recalling that in 2008, Governments had suppressed public protests arising from their inability to protect their populations from the food crisis and the surging oil prices and that, more often than not, the victims of the crisis were neither informed about nor associated with the decision-making on those issues, he said that the crisis also had an impact on the exercise of civil and political rights.

29. It was regrettable that, in spite of that situation, States were not taking the human rights dimension into account in their responses to the crisis, either at the June 2009 United Nations Conference on the World Financial and Economic Crisis and Its Impact on Development or in the work of the Group of Twenty (G-20). Under human rights law, States had the primary responsibility for creating the conditions to guarantee all fundamental rights for their peoples, particularly in times of crisis. Likewise, Governments were expected to bring their economic and social policies into line with human rights standards and, in accordance with the principle of non-discrimination, ensure that no measures adopted in response to the crisis had disproportionate effects, with a particular focus on protecting the most disadvantaged. Although international human rights law did not prescribe a specific economic system, it provided a clear and universally recognized framework that could be used to guide the design and implementation of measures to address the crisis, and provided the minimum standards against which the actions of Governments could be assessed.

30. Turning to the question of debt during global economic crisis, he said that the debt of developing countries had worsened and unsustainable debts had built up as a result of the rapid lines of credit granted by the international financial institutions, including the World Bank and the International Monetary Fund (IMF), designed to assist developing countries to mitigate the impact of the crisis and the downturn in trade. Therefore, in order to increase the fiscal space of the Governments and avoid another debt crisis, he recommended expanding debt cancellation and aid to developing countries.

31. In addition, he urged all States to support the global efforts being undertaken — by the United Nations Conference on Trade and Development (UNCTAD) in particular — to find a solution to the problem of illegitimate debt, as a way of ensuring unconditional debt cancellation, and establishing a framework for responsible financing, thereby reaffirming the principle of shared responsibility for unsustainable debt enshrined in the Monterrey Consensus.

32. Moving on to the issue of reform of the international financial system, he noted that the current crisis had highlighted the flaws in a system that saw market liberalization as the key to economic prosperity when it had in fact led to extreme poverty and profound inequalities. The scale of its impact had also shown that a new framework of governance and international decision-making was needed, one centred on people rather than profits. In that regard, he praised the efforts made by the G-20 to manage the economic crisis and reform the World Bank and the IMF; however, its proposals were inadequate and did not correspond with the realities of the global economy, in which low-income countries also played an essential role. In order to find an equitable and sustainable solution to that global problem, all countries should participate, on an equal basis, in the reform of the global economic system. Therefore, based on the principle of sovereign equality of all its members, only the United Nations had the necessary legitimacy to lead the reform efforts. Indeed, under Article 1, paragraph 3, of the Charter of the United Nations, such reform was part of its mission.

33. Reform of the international financial institutions should include measures to ensure that they complied with the Charter, the Universal Declaration of Human Rights and the various international human rights treaties, that their policy proposals did not compromise the capacity of States to meet their human rights obligations and that they made more room for low-income and other developing countries, so as to enhance their credibility.

34. From a human rights perspective, a priority concern should be to establish a new economic order that promoted economic prosperity, supported social systems and defended human rights for all, in order to address the structural imbalances that had contributed to the current crisis. Lastly, he urged the General Assembly to reiterate and implement the commitment made by States at the Special Session of the Human Rights Council in February 2009 to take account of a human rights perspective in addressing the crisis, in particular by ensuring the availability of safety nets and providing the aid that had been pledged in Monterrey.

35. **Ms. Ketover** (United States of America) said that her country was well aware of the challenges faced by many developing countries with crushing foreign debt, and had, moreover, contributed actively to debt relief in the context of the Heavily Indebted Poor Countries initiative and various multilateral programmes. However, it believed that a properly managed foreign debt was an essential way to finance development, and it was up to developing countries to design and implement their own national development strategies, with the understanding that both borrowers and lenders must exercise appropriate due diligence. For that reason, it was concerned by the nature of the relationship between debt and attainment of human rights goals outlined in the report, and believed that the promotion of sustainable development through international capital flows and the promotion of human rights were complementary, non-contradictory objectives. It was also concerned that the proposed new debt framework might restrict access by developing countries to needed financial resources.

36. **Mr. Makong** (Lesotho) stated that he shared the opinion of the Independent Expert on the need for further debt cancellation. The crisis could cause a small country like Lesotho to go deeper into debt and expose it to unsustainable debt, which could jeopardize government programmes and human rights efforts. The views of the Independent Expert on the debt moratorium mentioned in the context of UNCTAD would be appreciated.

37. **Ms. Ledesma Hernández** (Cuba) welcomed the efforts of the Independent Expert to find an internationally accepted definition of illegitimate debt and encouraged him to continue that work. Developing countries were still financing the excesses of the countries of the North, and the fact that the problem of developing countries' unsustainable debt had not been resolved was hampering the attainment of human rights, especially economic, social and cultural rights, including the right to development. She supported the conclusions and recommendations of the Independent Expert in his report (A/64/289, para. 68) regarding the need to restructure the current international economic and financial system, which was unjust. Given the international context of the economic and financial crisis, as well as the energy, food and environmental crises, it was imperative that the foreign debt of the countries of the South, which they were not in a position to pay off, be cancelled.

38. **Mr. Lumina** (Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights) said he did not agree with the representative of the United States. While indebtedness could be a way of financing development, and borrowers, like lenders, must demonstrate responsibility, there was a tendency to ignore the fact that because of the terms of loans, debtor countries did not have sufficient policy space to draw up their development policies.

39. In that regard, he recalled that one of the objectives of his mandate was to develop draft general guidelines on foreign debt and human rights in order to strengthen the responsibility of lenders and borrowers and guarantee that the provisions of loan agreements did not interfere with borrower countries' fulfilment of their human rights obligations. The UNCTAD draft, designed to create a favourable framework for responsible loans, had a similar aim.

40. Replying to the representative of Lesotho, he emphasized that the moratorium was merely a temporary measure aimed at providing some respite to developing countries with excessive debt. He had reservations regarding that solution; as most developing countries depended on commodity exports, the economic crisis had contributed to a worsening of the terms of trade, and it was risky in the current context to count on an improvement in the situation. Therefore, while he was not opposed to the idea of relieving somewhat the pressure on those countries, longer-term solutions were in his view more advisable.

41. Lastly, he thanked Cuba for its continued support for his mandate.

42. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions), introducing his report (A/64/187), said that while a number of States had cooperated fully and facilitated his requests for visits in recent years, more than two thirds of those to whom he had addressed requests, including 10 member States of the Human Rights Council, or one quarter of the members of that body, had either not followed up on or had refused his requests, which constrained the exercise of his mandate. He noted that the system for determining responsibility established by the United Nations was not functioning effectively.

43. In his report, he had concentrated on killings by vigilantes and mobs; he proposed during the course of the coming year to consider the legal framework applicable to the practice of "targeted killings" as well as several questions raised during his mandate regarding fact-finding procedures. Killings by vigilantes, a common practice worldwide, were sometimes encouraged by the authorities and were too often ignored by the international community. He urged States to take measures to ensure that they neither encouraged nor supported those killings in any way, keeping in mind that non-denunciation of such crimes constituted a presumption of failure to take the measures prescribed by international human rights law, and to adopt a system of penalties which would ensure that the forces of order or the local authorities enforced appropriate measures to prevent such killings. It was crucial that investigations be carried out promptly and diligently and that the perpetrators of such acts be prosecuted and punished.

44. In the Democratic Republic of the Congo, he had gathered overwhelming evidence of killings committed by the Armed Forces of the Democratic Republic of the Congo (FARDC) in North Kivu, followed by killings of civilians carried out in reprisal by the Democratic Liberation Forces of Rwanda (FDLR). It was deplorable that the Army — a coalition of former militia groups which lacked training, were poorly paid, often undisciplined and prone to violence — enjoyed the support of the United Nations Organization Mission in the Democratic Republic of Congo (MONUC). That raised questions regarding the measures taken by the Mission to ensure that it was not implicated in the crimes committed by its partners. He urged MONUC to report on the measures it had taken after the Shalio massacre, and regretted that the leader responsible had not been prosecuted. Furthermore, it was deplorable that the Mission had not taken any measures to apprehend General Bosco Ntaganda, who was the object of an International Criminal Court arrest warrant. The United Nations should abandon the principle that peace came before justice. Furthermore, members of the Army must wear uniforms and be easily identifiable.

45. An international campaign should be launched against the Lord's Resistance Army, which continued to commit human rights violations in the Democratic Republic of the Congo and throughout the region. In addition the Republican Guard should be integrated into the FARDC to avoid having its troops become uncontrollable and hindering the electoral process. Given the appalling detention conditions in that country, he recommended that the Human Rights Council appoint a Special Rapporteur for detainees' rights.

46. With reference to Kenya, he was primarily interested in the police death squads which had killed hundreds of people, and he had requested the dismissal of the police commissioner whose responsibility in that connection had been documented. That request had been followed up on, although the person concerned had subsequently been promoted into another position. The Government had not opened an investigation into those killings, and the guilty parties, like the perpetrators of acts of torture and killings committed in the Mount Elgon district, had not been arrested or prosecuted. By the same token, those responsible for the deadly post-election violence were still enjoying widespread impunity. That being the case, he warmly welcomed the initiative by the International Criminal Court to investigate those events.

47. With regard to Colombia, he had considered the problem of civilian killings by members of the military who reported the incidents as combat killings in order to obtain rewards. He had found no evidence indicating that those killings had been directed from the top, but they were quite common and were carried out more or less systematically by a number of military units. The Government had adopted measures in that regard, but it appeared that military judges did not always take them into account and that they made efforts to thwart the transfer of such cases to the ordinary justice system. That had the effect of perpetuating the climate of impunity which reigned in the country.

48. He had also undertaken a mission to the United States and submitted a report to the Human Rights Council, and he was awaiting the comments of the United States Government. The use of unmanned drones to carry out targeted executions posed a problem; measures should be taken to guarantee that the use of such techniques was consistent with international law and that the international humanitarian law principles of discrimination, proportionality, necessity and precaution were respected. Unless that was done, the United States would increasingly be perceived as a country which committed indiscriminate killings in violation of international law.

49. **Mr. Muburi-Muita** (Kenya) said that, in order to ensure that constitutional order was maintained, the Kenyan Government had initiated reforms in several key areas such as governance, justice, legislation, public service, policing, property law, elimination of corruption, human rights protections and electoral reform, and had also adopted various acts relating to witness protection, constitutional reform, the creation of a Truth, Justice and Reconciliation Commission, and national cohesion. In addition, Kenya, which supported the work of the special procedures mandate-holders and cooperated constructively with them to promote and protect human rights, intended to pursue that collaboration in observance of the provisions set forth in the Code of Conduct for Special Procedures Mandate-holders.

50. The Special Rapporteur's request for the removal of officials from public office was unprecedented and illegal. The Human Rights Council and the General Assembly prohibited any interference in the political organization of the Member States, and the Special Rapporteur had overstepped his mandate and disregarded the Code of Conduct. Moreover, the Special Rapporteur's report seemed to have reprised the report of the Kenya National Commission on Human Rights. That violated the letter and spirit of the Code of Conduct and called into question the Special Rapporteur's independence and credibility. In violation of article 13, paragraph (c) of that Code, the Special Rapporteur had also chosen to make his report known at a press conference before sending it to the Government of Kenya and giving it time to respond. The Special Rapporteur's conduct had generated heated debate in the Human Rights Council, which was compelled to adopt a resolution requiring special procedures mandate-holders to adhere to the Code of Conduct.

51. **Ms. Mirow** (Sweden), speaking also on behalf of the European Union, said that abolishing the death penalty contributed to the enhancement of human dignity and the progressive development of human rights, and she emphasized that those States that tolerated vigilante killings failed to comply with their international obligations. She asked the Special Rapporteur to indicate which tools were the most effective at the national level to ensure that States complied with the relevant provisions of the International Covenant on Civil and Political Rights in the actions they undertook to prevent vigilante killings and other forms of extrajudicial, summary or arbitrary execution. She also asked him to provide examples of best practices and of the progress achieved in the adoption by Governments of a system of sanctions to ensure that the police or municipal authorities were implementing the measures taken.

52. Regarding the Democratic Republic of the Congo, she asked the Special Rapporteur to indicate what other measures the Government of the Democratic Republic of the Congo and the international community could take in order to prevent further massacres of civilians by armed groups as the election planned for 2010 approached.

53. The European Union strongly condemned the recent violent crackdown on demonstrators in Conakry, and welcomed the decision of the Secretary-General of the United Nations to establish an international commission of inquiry. It also called on the Guinean authorities to cooperate fully with the inquiry. She asked if the Special Rapporteur intended to seek to visit Guinea in order to ensure that the authorities were creating the necessary conditions for an investigation and to ensure accountability.

54. The European Union noted with concern that the Government of Kenya had been unable to establish a special tribunal to end the impunity of the perpetrators of the post-election massacres, and that it had still not submitted a report to the International Criminal Court. She asked the Special Rapporteur to specify his recommendations to the Government regarding steps it should take to avert the repetition of large-scale violence, and to provide detailed information on his recommendation of an independent police oversight body. She also asked him to provide an update on the progress made in examining the legal framework applicable to the practice of targeted killing.

55. **Ms. Kholi** (Switzerland) asked the Special Rapporteur what measures could be taken by human rights bodies to help counter the widespread phenomenon of vigilantism and vigilante killings, and when he expected to be able to share his thoughts on the issue of fact-finding. Given that many States had yet to approve the Special Rapporteur's requests to visit, she asked what measures could be taken to encourage more of them to allow him to visit. Her delegation supported the proposal to appoint a special rapporteur on the rights of detainees and asked whether

there were existing models at the regional level that could be useful.

56. **Ms. Ketover** (United States of America) said that the issue of targeted killings in the context of a conflict was governed by international humanitarian law, not by the mandate of the Special Rapporteur, and that that issue was the subject of a longstanding disagreement with the United States. In addition, information on that topic was often classified in nature and could therefore be difficult to obtain from States. Even so, her delegation continued to respect the independence of the Special Rapporteur. It agreed that States should try to prevent mob justice and vigilante killings and that they had a responsibility to investigate such acts and to prosecute the perpetrators thereof. Her delegation likewise agreed that a distinction should be made between vigilante killings that amounted to a crime under domestic law and those that, owing to the involvement or acquiescence of the State, rose to the level of a human rights violation. She asked the Special Rapporteur whether he thought that the establishment of a more efficient and independent judicial system would decrease the number of vigilante killings around the world, and how community policing programmes could be tailored so as to improve criminal justice systems without lending themselves to vigilante justice.

57. **Ms. Mitchell** (Canada) recognized that a certain number of factors could encourage vigilante justice and legitimize it in the eyes of the public, and that vigilante killings in which there was covert or overt involvement of the State were in fact more common than was stated. She agreed with the Special Rapporteur that the establishment of transparent and accountable institutions was a prerequisite for the restoration of public confidence in the justice system and the rule of law. She asked what measures States could take to ensure that they were neither supporting nor encouraging vigilante killings, and to prevent those killings and punish the perpetrators.

58. **Ms. Richardson** (New Zealand) commended those States that had cooperated with the Special Rapporteur in 2009 and encouraged those that had not yet done so to accede to his requests for visits as soon as possible. She agreed that there was no magic solution to the problem of vigilante killings, and hoped that the Special Rapporteur would provide specific details on the type of analysis he felt was necessary to address the problem. Her delegation appreciated the important work he was doing and wished him success in his future work on the legal framework applicable to the practice of targeted killings.

59. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions), answering the questions raised by Canada, New Zealand, Sweden (on behalf of the European Union), Switzerland and the United States of America regarding vigilante killings and mob justice, said that there was no magic solution and that, while all countries tended to deplore such incidents, they were not unsympathetic, because Governments and members of civil society alike, faced with high levels of crime, felt that the victims of such killings had merely got what they deserved. The problem had more serious consequences, however, because mobs were uncontrollable, undermining the effectiveness of the forces of law and order, so that exercises of popular justice, which Governments and members of civil society ignored, were often detrimental in the long term.

60. The main thing was to acknowledge the significance of the issue and to ensure that future special rapporteurs on extrajudicial executions focused more carefully on situations in countries where vigilante justice seemed to be unaddressed by the Governments concerned, which raised clear issues of State responsibility.

61. It should be noted in that connection, at the time when large numbers of African-Americans were being lynched in the South, lynching being a form of execution by vigilante groups, the federal authorities in the United States had had to threaten local authorities with financial and other penalties as an incentive for them not to sit by without lifting a finger while such lynchings took place.

62. With respect to the Democratic Republic of the Congo, the only way to prevent a repetition of the killings that had taken place in Bas-Congo following the elections was to address impunity. Furthermore, he welcomed the establishment by the Secretary-General of an international commission of inquiry to investigate the massacres carried out in Guinea, which were the consequence of a series of killings that had remained uninvestigated and unpunished for years. Guinea had not responded to the request for a visit. With respect to targeted killings, and in response to the comments by the United States delegation, as indicated in his reports, the Human Rights Council and the General Assembly

had always considered that unlawful killings in times of armed conflict were matters that should be taken up by those bodies. It was sufficient to mention the Goldstone report, which was largely based on international humanitarian law, or the situation in Sri Lanka, and many others. If the United States position were accepted, it would not have been possible to conduct investigations in the Democratic Republic of the Congo and publish the results because the situation would have been covered by the law of armed conflict and no one attached importance to it. The use of drones and predators was becoming increasingly attractive and widespread; estimates of the number of civilians killed varied widely, from 95 per cent of victims according to one study down to 30 per cent or less according to others.

63. It was unacceptable for a national intelligence agency such as the CIA, which operated the majority of such weapons, to determine in complete isolation when, where and against whom to use them and then to state that that was not a matter for human rights law or international humanitarian law. That was an untenable position and the new administration should adopt a more constructive approach to the issue.

64. Lastly, concerning the desirability of appointing a new special rapporteur on the rights of detainees, he felt that, in view of the increasingly appalling conditions of detention in many countries, such an appointment would very probably do much to improve them.

65. **Mr. Hetanang** (Botswana), after welcoming the Special Rapporteur's report on vigilante killings, said that he was disappointed by the desperate attempts of some delegations to introduce questionable notions or to find controversy where none existed, on the pretext of supporting the special procedures mandates. Botswana trusted that special procedures mandate-holders would be capable of maintaining their independence in the performance of their duties.

66. **Ms. Ahuja** (India) said that the report of the Special Rapporteur seemed to indicate that vigilante killings were a phenomenon that occurred in a number of countries. Most countries had effective legal mechanisms to combat them. The Indian Penal Code prohibited all assemblies of individuals seeking to cause mischief or commit any other offence. India's legal system also provided for punishment of the perpetrators of such acts. Having said that, the problem was not an absence of laws, but one of enforcement. Unfortunately, the Special Rapporteur's report did not contain many recommendations on those aspects.

67. **Ms. Horsington** (Australia), congratulated the Special Rapporteur; she agreed that it was necessary for all States to combat vigilante killings, and welcomed the efforts to investigate cases of unlawful violence in Kenya and Colombia. She wished to know whether the establishment of a special national tribunal could help curb unlawful violence in Kenya.

68. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions), responding to the questions and comments, said that he had been brief in his overview of the situation in Colombia, first because his final report had not yet been issued, and secondly because the Colombian Government had fully cooperated with him. He had had a two-and-a-half-hour meeting and a productive exchange with the President, who had given him strong assurances that he took his recommendations very seriously. His forthcoming report would provide guidance for Colombia's efforts. The case was a model of cooperation that demonstrated the role a special rapporteur could play when a Government engaged in that spirit.

69. In answer to Australia's question about the possible role of a national tribunal in Kenya, the Special Rapporteur said that Kenya had already acted in an exemplary manner with the Commission of Enquiry into Post-Election Violence chaired by Justice Philip Waki, which had published a report known as the "Waki report". The problem was that the specific recommendations set out in the report that should have been implemented at the national level had not yet been implemented. What should be done was to establish a sort of hybrid tribunal that would have an international dimension. It would be for the Kenyan Government to take a decision in that regard, provided that every effort was made to combat impunity.

70. Unfortunately, the representative of India was correct. The current report was somewhat abstract because its main objective was to point out the marked indifference that many countries displayed towards vigilante killings. That was a real problem whose solution must be tailored to the situation. In some countries, the neglect was the result of a policy under which Governments let people be killed in order to save both time and ammunition and to make up for

inadequate policing. Other countries had highly developed legal systems but had difficulty in implementing the laws in certain situations.

71. He welcomed the comments by the delegation of Botswana. The independence of the special rapporteurs lent a great deal of credibility to the United Nations human rights system. Some Governments would never accept visits of special rapporteurs, but the Kenyan Government must be commended: despite the strong criticism it had just delivered, it had nonetheless allowed the Special Rapporteur to visit and had cooperated with him, which had led to constructive dialogue with the Prime Minister and with many other individuals, including Government ministers. He endorsed the remarks by the delegation of Botswana, emphasizing the importance of the system and that it was in the interest of Member States to show a spirit of cooperation.

The meeting rose at 12.25 p.m.